

Judge Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID LEE EISENHART,

Defendant.

NO. CR18-5146BHS

UNITED STATES' OPPOSITION TO  
MOTION FOR EARLY TERMINATION  
OF SUPERVISED RELEASE [Dkt. 4]

**I. INTRODUCTION**

On February 22, 2017, United States District Judge Geoffrey W. Crawford (District of Vermont) sentenced David Lee Eisenhart to 12-month-and-one-day term of imprisonment, followed by three years of supervised release. *United States v. Eisenhart*, CR15-173 [Dkt. 32]. Mr. Eisenhart was released from prison on or about February 13, 2018, and began serving his term of supervised release.

On February 26, 2019, Mr. Eisenhart filed a *pro se* Motion to Terminate Remaining Supervised Release Term. Dkt. 4. In his motion, Mr. Eisenhart states that he is not seeking a hearing before the Court, and opines that he is deserving of early termination because he has "served the requisite year on supervision" and because since release from prison, his conduct "personifies change, cooperation, and absolute

1 compliance.” For the following reasons, the United States opposes early termination of  
2 Mr. Eisenhart’s supervised release.

## 3 II. LEGAL STANDARD

4 Termination of supervised release is governed by Title 18, United States Code,  
5 Section 3583(e)(1), which provides in part:

6 The court may, after considering the factors set forth in section 3553(a)(1),  
7 (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)-

8 (1) terminate a term of supervised release and discharge the defendant  
9 released at any time after the expiration of one year of supervised release,  
10 pursuant to the provisions of the Federal Rules of Criminal Procedure  
11 relating to the modification of probation, if it is satisfied that such action is  
12 warranted by the conduct of the defendant released and the interest of  
13 justice ....

13 The statute gives the Court “broad discretion to alter the conditions of a  
14 defendant’s supervised release.” *United States v. Miller*, 205 F.3d 1098, 1100 (9th Cir.  
15 2000). “Occasionally, changed circumstances – for instance, *exceptionally* good  
16 behavior by the defendant or a downward turn in the defendant’s ability to pay a fine or  
17 restitution imposed as conditions of release – will render a previously imposed term or  
18 condition of release either too harsh or inappropriately tailored to serve the general  
19 punishment goals of section 3553(a).” *United States v. Lussier*, 104 F.3d 32, 36 (2nd Cir.  
20 1997) (emphasis added). In short, mere compliance with the terms of supervised release  
21 is not the sort of “changed circumstance” that warrants early termination.

## 22 III. ARGUMENT

23 Mr. Eisenhart has not alleged any exceptional or extraordinary circumstances that  
24 would warrant early termination. Instead, he points to two actuarial studies, the nine  
25 general criteria for early termination, and a presumption in favor of recommending early  
26 termination for those who have been supervised for at least 18 months. Of note, Mr.  
27 Eisenhart has been supervised for approximately 13 months.



**CERTIFICATE OF SERVICE**

I hereby certify that on March 12, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

/s/ Lisa Crabtree

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